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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,175	08/11/2005	Herbert Groschup	3249	5446
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 17743			EXAMINER AHMAD, CHARISSA L	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 12/15/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/527,175

**Applicant(s)**

GROSCHUP ET AL.

**Examiner**

Charissa Ahmad

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) 3, 4, 7, 9 and 15-27 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 2, 5, 6, 8 and 10-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 08 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/8/05 and 7/30/07.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 3, 4, 7, 9 and 15-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/9/08.
2. **Applicant's election without traverse of Claims 1, 2, 5, 6, 8 and 10-14 in the reply filed on 10/9/08 is acknowledged.**

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: Line 6 recites, "the pillars." The "the" should be deleted. Appropriate correction is required.
4. Claim 13 is objected to because "panel-type elements" have already been previously disclosed. It is recommended that Applicant say "said panel-type elements." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. **Claims 1, 2, 5, 6, 8 and 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

7. Regarding claims 1 and 10, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1, 2, 5, 8 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Barker (US Patent 3,353,315).** [Claim 1] Barker discloses a construction system comprising that are configured from panel-type elements (1) wherein the panel-type elements are manufactured from a material containing crushed vegetable-fiber material (Column 2, lines 33-36) and have recesses (2) (Figure 1). [Claim 2] The recesses are formed in the surfaces of the panel-type elements (Figure 1). [Claim 5] The walls are covered on the surfaces containing the recesses by cover panels (30) (Figure 11). [Claim 8] An air gap is located between diametrically opposed, panel-type elements (Figure 11). [Claims 10 and 11] Pillars (13) are manufactured out of wood, fibre board, or metal (Column 2, lines 48-54) (Figure 11). [Claim 12] The walls are composed of pre-manufactured wall elements and are capable of being assembled out of the same. [Claim 13] The wall elements include said panel-type elements (1), pillars (5, 6, 8), a threshold (12) and a top framework (10) (Figure 2). [Claim 14] The wall elements include cover

panels (second panel 1 in the double-walled system of Figure 11) manufactured out of the same material as the panel-type elements.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barker (US Patent 3,353,315).** Barker discloses the claimed invention, but does not disclose a cover panel that is as thick as the recesses. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the wall of Barker with a cover panel equal in thickness to the thickness of the recesses, since the dimensions would have been a matter of design choice and the wall of Barker would operate equally well with any desired dimensions. No unexpected results are obtained from the claimed dimensional ratios and as such they are viewed as nothing other than obvious choice of design.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charissa Ahmad whose telephone number is (571) 270-5220.

The examiner can normally be reached on Monday - Friday 7:30 am to 5 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner  
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